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GENERAL ASSEMBLY
Fifty-second session
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INFORMATION FROM NON-SELF-GOVERNING
TERRITORIES TRANSMITTED UNDER
ARTICLE 73 e OF THE CHARTER OF THE
UNITED NATIONS
QUESTION OF EAST TIMOR

SECURITY COUNCIL
Fifty-second year

Letter dated 5 September 1997 from the Permanent Representative of Portugal to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit herewith a note verbale dated 28 August 1997 from the Portuguese Embassy in Canberra to the Department of Foreign Affairs and Trade of Australia concerning the protest expressed by the Government of Portugal against the signature by the Government of Australia of the treaty between Australia and the Republic of Indonesia establishing an exclusive economic zone boundary and certain seabed boundaries, in as far as such treaty relates to the Non-Self-Governing Territory of East Timor (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under items 90 and 95 of the provisional agenda, and of the Security Council.

(Signed) Antonio MONTEIRO
Ambassador
Permanent Representative of Portugal
to the United Nations

* A/52/150 and Corr.1.

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ANNEX

Note verbale dated 28 August 1997 from the Embassy of Portugal in Canberra addressed to the Department of Foreign Affairs and Trade of the Government of Australia

1. The Government of the Portuguese Republic took notice of the signature of a treaty between the Government of Australia and the Government of the Republic of Indonesia establishing an exclusive economic zone boundary and certain seabed boundaries.

In addition to subject matters that concern Australia and Indonesia (only), the treaty purports to establish the exclusive economic zone boundary between Australia and the Non-Self-Governing Territory of East Timor.

2. In such point, the "treaty follows the path of the treaty between Australia and the Republic of Indonesia on the zone of cooperation in an area between the Indonesia Province of East Timor and northern Australia", dated 11 December 1989, now with the aggravating circumstance that it intends to establish a permanent delimitation of the spaces (exclusive economic zone) appertaining respectively to Australia and to the Non-Self-Governing Territory of East Timor.

3. Portugal does not recognize the intended delimitation and contends that on such matter the signature of the treaty constitutes one violation more to the status of East Timor as a Non-Self-Governing Territory within the meaning of Chapter XI of the Charter of the United Nations, and to the rights of the people of East Timor, as well as to the status of the administering Power of the Territory.

4. The Government of Portugal recalls that during the proceedings of the East Timor case Australia formally acknowledged and the International Court of Justice took due notice thereof (para. 31 of the Judgment), that "the Territory of East Timor remains a Non-Self-Governing Territory and its people has the right to self-determination". Portugal maintains that the "de jure" recognition by Australia of the incorporation of East Timor in Indonesia is inconsistent with such acknowledgement.

5. The Government of Portugal reminds that, by its Judgment of 30 June 1995, the International Court of Justice declined to exercise jurisdiction in the East Timor case because, in the Court's view, "in order to decide the claims of Portugal, it would have to rule, as a prerequisite, on the lawfulness of Indonesia's conduct in the absence on that State's consent". "Whether the power to make treaties concerning [in the case] the continental shelf resources of East Timor belongs to Portugal or Indonesia would depend on whether Indonesia's entry into and continued presence in the Territory are lawful" (para. 35).

Portugal strongly emphasizes that Indonesia's entry into and continued presence in the Non-Self-Governing Territory of East Timor are unlawful, because they violate two fundamental rules of international law: the prohibition of the

use of force and of territorial acquisition by the use of force, and the principle of self-determination of peoples.

7. Therefore the Government of Portugal lodges its most vehement protest against the signature by the Government of Australia of the treaty between Australia and the Republic of Indonesia establishing an exclusive economic zone boundary and certain seabed boundaries, in as far as such treaty relates to the Territory of East Timor.